HON'BLE SRI JUSTICE V. ESWARAIAH

W.P.NO. 17211 OF 2007

Dated: 14.8.2007

Between:

Md. Khaja Miya

… Petitioner

and

The Station House Officer,
Dornakal Police Station, Warangal
District

… Respondent

HON'BLE SRI JUSTICE V. ESWARAIAH

W.P.NO. 17211 OF 2007

ORAL ORDER:

The petitioner seeks to issue a writ of Mandamus declaring the action of the respondent-SHO, Dornakal Police Station, Warangal District, in not taking action on the complaint dated 19.7.2007 made by the petitioner.

It is stated that when a complaint has been filed disclosing commission of a cognizable offence, it is the statutory obligation of the SHO to register a case and investigate the same. There cannot be any justification on the part of the respondent in not considering the said written intimation sent by registered post by the petitioner on 19.7.2007.

It is true that the respondent is under statutory obligation to register a case whenever it discloses that a cognizable offence has been committed by the accused. However, I am of the opinion that there is an effective alternative remedy available to the petitioner to pursue his remedies under the provisions of the Code of Criminal Procedure (for short 'the Code'). If the FIR is not registered under Section 154 of the Code, it is open for the petitioner to intimate the gist

of the FIR to the Superintendent of Police concerned and even when the Superintendent of Police fails to investigate into the matter by registering a case by himself or by any other officer authorized by him, it is still open for the petitioner to file a private complaint under Sections 190 r/w 200 of the Code, as held in a catena of decisions by this court as well as the Supreme Court.

In view of the aforesaid remedy available under law, I am not inclined to admit the writ petition and the same is dismissed at the stage of admission. No order as to costs.

V. ESWARAIAH, J

DATE: 14.8.2007
CVM